

REMARKS

Summary of Office Action

Claims 1-11 are pending in the above-identified patent application.

The Examiner has rejected claims 1-6 and 8-11 under 35 U.S.C. § 103(a) as allegedly being obvious from Sullivan U.S. Patent 6,120,432 in view of Dakov U.S. Patent 6,030,392. Claim 7 as been rejected under 35 U.S.C. § 103(a) as allegedly being obvious from Sullivan and Dakov, further in view of van der Gaast U.S. Patent 3,577,979. Claims 1-11 also have been rejected for obviousness-type double-patenting over claims 1-22 of U.S. Patent 6,416,527, issued on grandparent Application No. 09/014,759.

Applicants' Reply to the Double-Patenting Rejection

Claims 1-11 have been rejected for obviousness-type double-patenting over the grandparent application. This rejection is respectfully traversed.

Applicants are submitting herewith a Terminal Disclaimer Under 37 C.F.R. §§ 1.321(b,c), disclaiming the terminal portion of the term of any patent to be issued on the present application, Application No. 10/659,951, which would extend beyond the expiration date (currently September 11, 2018, as extended) of the full statutory term of U.S. Patent No. 6,416,527.* Accordingly, applicants respectfully submit that the double-patenting rejection should be withdrawn.

* It is applicants' and assignee's intention that if any change in the patent statutes delays the expiration date of U.S. Patent No. 6,416,527, or if U.S. Patent No. 6,416,527 is hereafter awarded further patent term extension under 35 U.S.C. § 154(b), then the date beyond which the term of any patent to issue on this application is disclaimed shall change along with the expiration date of the grandparent patent.

The Director is hereby authorized to charge \$130.00, in payment of the fee set forth in 37 C.F.R. § 1.20(d), and any additional fee that may be due, in connection with the Terminal Disclaimer, to Deposit Account No. 06-1075.

Applicants' Reply to the
Prior Art Rejections

Claims 1-6 and 8-11 have been rejected under 35 U.S.C. § 103(a) as allegedly being obvious from Sullivan in view of Dakov. Claim 7 as been rejected under 35 U.S.C. § 103(a) as allegedly being obvious from Sullivan and Dakov, further in view of van der Gaast. These rejections are respectfully traversed.

All claims have been rejected as being obvious from a combination of references including Sullivan. However, Sullivan is not available as a reference against the current application. Sullivan issued on September 19, 2000 based on an application filed April 23, 1997. The current application is entitled to the filing date of grandparent Application No. 09/014,759, filed January 28, 1998. Accordingly, Sullivan is available as a reference, if at all, only under 35 U.S.C. § 102(e).

However, Sullivan is commonly assigned with the present application and the present invention was subject to an obligation of assignment to the common assignee at the time it was made.* Therefore, in view of 35 U.S.C. § 103(c),

* Sullivan was assigned at the time of its filing to Vascular Science Inc. (see assignment at Reel 8529, Frames 361-64). The current invention was subject at the time it was invented to an obligation of assignment to Vascular Science Inc., to which it was assigned at the time of filing of the grandparent application (see assignment at Reel 9004, Frames 512-15). Vascular Science Inc. subsequently changed its name first to St. Jude Medical Cardiovascular Group, Inc. (see assignment at Reel 10395, Frames 830-33), and then to St. Jude Medical ATG, Inc. (see assignment at Reel 12691, Frames 368-78). Thus at all relevant times, Sullivan and the current invention were commonly owned.

Sullivan is unavailable for rejections under 35 U.S.C. § 103(a) against the current application.

Accordingly, applicants respectfully submit that the pending claims are patentable.

Conclusion

For at least the reasons set forth above, applicants respectfully submit that this application is in condition for allowance. Reconsideration and prompt allowance of this application are respectfully requested.

Respectfully submitted,

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